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California Regional Water Quality Control Board

Los Angeles Region

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Ron Gallagher
Claremont Hills, LLC.
27200 Tourney Road, Suite 200
Valencia, CA 91355

**WATER QUALITY CERTIFICATION FOR PROPOSED CLAREMONT HILLS
SEDIMENT ENTRAPMENT BASINS MAINTENACE PROJECT (Corps' Project No.
2000-00030-PJF), UNNAMED TRIBUTARY (CHICKEN CANYON) AND TWO
UNNAMED TRIBUTARIES TO THOMPSON CREEK, CITY OF CLAREMONT, LOS
ANGELES COUNTY
(File No. 03-079)**

Dear Mr. Gallagher:

Regional Board staff has reviewed your request on behalf of Claremont Hills, LLC for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 4, 2003.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits. Finally, this certification does not foreclose the imposition of appropriate penalties for failure to obtain this certification prior to commencement of work.

Should you have questions concerning this certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

_____[Original signed by]_____
Dennis A. Dickerson
Executive Officer

_____[December 29, 2003]_____
Date

California Environmental Protection Agency



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ATTACHMENT A

Project Information File No. 03-079

1. Applicant: Ron Gallagher
Claremont Hills, LLC.
27200 Tourney Road, Suite 200
Valencia, CA 91355

Phone: (661) 799-1324 Fax: (661) 288-5748
2. Applicant's Agent: Mike Trotta
LSA Associates, Inc.
20 Executive Park, Suite 20
Irvine, CA 92614

Phone: (949) 553-0666 Fax: (949) 553-8076
3. Project Name: Claremont Hills Sediment Entrapment Basins Maintenance
4. Project Location: City of Claremont
Los Angeles County

<u>Longitude</u>	<u>Latitude</u>
Basin 1: 117°42'04"	34°08'46"
Basin 2: 117°41'53"	34°09'00"
Basin 3: 117°41'53"	34°09'07"
Basin 4: 117°41'38"	34°09'11"
Basin 5: 117°41'17"	34°09'07"
Basin 6: 117°41'13"	34°09'11"
5. Type of Project: Sediment Basin Construction and Maintenance
6. Project Description: *Background:*
The Applicant received a Water Quality Certification in 1999 (99-141) for a residential development. The overall project involved grading to establish building pads, construction of roadways, utility lines, storm drains and flood control facilities for a residential development consisting of 125 homes.

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Grading and the construction of detention basins in the watercourse created 0.75 acres of permanent impacts to waters of the United States. The permanent impacts associated with this project consisted of 1) placement of fill in a an unnamed tributary within Chicken Canyon and two unnamed tributaries to Thompson Creek and 2) construction of six sediment detention basins.

Purpose:

The purpose of this proposed project is for the maintenance of the Claremont Hills Sediment Entrapment Basins.

Description:

The project proposes the removal of sediments and other necessary maintenance activities within six soft-bottomed concrete-walled sediment entrapment basins constructed as part of the Runoff Management Plan for the residential development. The Applicant will eventually transfer responsibility for the facilities to the Los Angeles County Department of Public Works (LACDPW).

The project activities include sediment removal when the basins have accumulated to 5% or more of their capacity, and more than 20% of the watershed tributary to the basins has burned within five years, or when the basins accumulate to 25% of capacity regardless of the condition of the tributary watershed.

The six (6) sediment basins cover an area of 4.931 acres of waters of the United States. These maintenance areas will be considered as permanent impact areas associated with this project.

Mitigation:

The original project resulted in the filling of 0.75 acre of waters of the United States. The Applicant had proposed 0.82 acres of mitigation on-site in the form of revegetation of Mulefat scrub habitat. This mitigation area is located at the southwest corner of the project area.

During the permitting process, the United States Fish and Wildlife Service (USFWS) designated approximately one-half of the project area as critical habitat for the coastal California gnatcatcher (*Polioptila californica californica*). The resulting Section 7 consultation required additional mitigation in the form of coastal sage scrub enhancement of 6.2 acres on an adjacent parcel.

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The Department of Fish and Game (CDFG) also required the enhancement of 3.53 acres of southern Sycamore riparian woodland in lands managed by the Puente Hills Landfill Native Habitat Preservation Authority, and the implementation of an exotic weed removal program within 2.28 acres in the Whittier Narrows area of the San Gabriel River managed by the Corps.

- | | |
|--|---|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
RGP. 45 (Permit No. 2000-00030-PJF) |
| 8. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement (Notification No. 5-310-99) |
| 9. California Environmental Quality Act (CEQA) Compliance: | The City of Claremont approved the project's Final Environmental Impact Report on March 17, 1992. |
| 10. Receiving Water: | An unnamed tributary within Chicken Canyon and two unnamed tributaries to Thompson Creek (Hydrologic Unit No. 405.53) |
| 11. Designated Beneficial Uses: | MUN, GWR, REC-1, REC-2, WARM, WILD, RARE |
| 12. Impacted Waters of the United States: | <u>Previously Certified Impacts</u>
Non-wetland waters (vegetated streambed): 0.75 permanent acres

<u>Proposed Maintenance Impacts</u>
Non-wetland waters (unvegetated sediment basins):
4.93 permanent acres |
| 13. Dredge Volume: | None |

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14. Related Projects Implemented/to be Implemented by the Applicant:
- The Applicant is currently implementing development of Tract 50568, a 123-lot residential development project.
- Within the last five years, the Applicant installed new paving, curb and gutters, underground utilities, and improved the existing sewer improvements of Tract 9582, which is a 14-lot subdivision west of the proposed project. The project was originally graded more than five years ago. The adverse impacts from this project include the runoff from installation of hardscape, curb and gutters.
15. Avoidance/Minimization Activities:
- The Applicant has proposed to implement standard construction Best Management Practices (BMPs) to conform to SWPPP and NPDES requirements.
16. Proposed Compensatory Mitigation:
- The Applicant has proposed the following compensatory mitigation for impacts associated with the residential development and also the construction of the six (6) sediment entrapment basins:
- 0.82 acres of on-site revegetation of Mulefat scrub habitat;
 - 6.20 acres coastal sage scrub enhancement on an adjacent parcel;
 - 3.53 acres of off-site southern Sycamore riparian woodland enhancement; and
 - 2.28 acres of exotic weed removal.
- Total impacts associated with the project consist of approximately 5.68 acres of waters of the United States. The maintenance of the sediment entrapment basins (4.93 acres) will be considered as a permanent impact, even though these areas are “created” waters. Mitigation proposed for all impacts will consist of 12.83 acres, corresponding to a mitigation ratio of 2.26:1.

ATTACHMENT B

Conditions of Certification File No. 03-079

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.

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4. The Applicant shall not conduct any maintenance activities within waters of the United States during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within **five (5) days** of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
5. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
6. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
7. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
8. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities,

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and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

9. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
10. Application of pesticides must be done by a certified applicator and compounds used must be appropriate to the target species and habitat. All pesticides directed to species that are located in water must be permitted through the Regional Board. As per State Water Resources Control Board Water Quality Order no. 2001-12-DWQ, a Notice of Intent for a National Pollutant Discharge Elimination System (NPDES) is the appropriate permit for water based pesticide application. Pesticide use is granted only per conditions and prescriptions delineated in the certification Maintenance Plan dated October 17, 2000 or any subsequently approved plan that follows.
11. No activities shall take place in any area where there is potential for any rare, threatened, or endangered species prior to completion of a formal or informal consultation with the responsible wildlife agencies. Upon completion of the consultation with the U.S. Fish and Wildlife Service, or other appropriate agencies, the Applicant shall submit a copy of the consultation results to this Regional Board. Any conditions required by the approving agency for the protection of any protected species shall be incorporated into this Certification.
12. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any clearing activities. The biologist shall be available on site during clearing activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
13. All maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.

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14. Prior to conducting maintenance activities within the subject areas, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed long term and immediate schedules; (b) a description of the drainage's existing condition; (c) the area of proposed temporary impact within waters of the state; and (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation). Notifications must be received a minimum of **one (1) week** prior to commencing work activities.
15. The Applicant shall restore all areas of temporary disturbance that could result in a discharge or a threatened discharge to waters of the state. The Applicant shall implement all appropriate Best Management Practices to control erosion and runoff from areas associated with this project.
16. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed impacts to **5.68 acres** of vegetation within waters of the United States by creating, enhancing or restoring riparian habitat at a minimum 2.26:1 area replacement ratio (**12.83 acres**).
17. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
18. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **03-079**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
19. The Applicant shall have copies of this certification and all other regulatory approvals on site at all times, and all contractors employed by the Applicant shall be made aware of the conditions of this certification.
20. The Applicant shall submit Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project area and mitigation sites. Additionally, the Applicant shall submit a site description, including length and width of the reach which was cleared, and pre and post-maintenance photographs.

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21. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year documenting all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative pre- and post-photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved.
22. The project shall comply with the local regulations associated with the Regional Board's Municipal Stormwater Permit issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for storm water discharges associated with construction activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit. The project shall also comply with the requirements of the NPDES Aquatic Pesticide Application Permit
23. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
24. The Applicant shall notify this Regional Board in writing of any proposed custodial changes covered by this Certification at least sixty (60) days prior to planned transfer of the reaches. A copy of the accepted transfer agreement shall be provided as part of this notification for approval.
25. This certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this certification if renewal is requested.

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26. The project proponent shall submit an **Annual Report** by **May 1** each year. The report shall describe in detail all of the activities actually performed during the previous year. This report shall include as a minimum, the following documentation:
 - (a) Color aerial and representative cross-section photo documentation of the pre- and post-project conditions;
 - (b) The overall status of project including a detailed schedule of work;
 - (c) Copies of all appropriate permits;
 - (d) Water quality monitoring results compiled in an easy to interpret format;
 - (e) A certified statement of “no net loss” of wetlands associated with this project; and
 - (f) A certified statement from the permittee or his/her representative that all conditions of this certification have been met.
27. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
28. The Applicant shall file with the Regional Board (Attention: 401 Water Quality Certification Staff) technical reports on self-monitoring work conducted according to the Annual Monitoring Reports specified by the Executive Officer and submit other reports as requested by the Regional Board.
29. The Applicant or their agents shall report any noncompliance, which may endanger health or the environment. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

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30. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

31. All applications, reports, or information submitted to the Regional Board shall be signed:

- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
- (b) For a partnership, by a general partner.
- (c) For a sole proprietorship, by the proprietor.
- (d) For a municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

Conditions of Certification
File No. 03-079

- "I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed they system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

____ (Signature)
____ (Title)''